

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CASE NO. 04 11539 JLT

**WALTER STICKLE, ANTHONY
CALIENDO, JOHN PITINGOLO and
DANIEL FISHER,
Plaintiffs/Defendants-in-
Counterclaim**

v.

**ARTHUR ORFANOS,
Defendant/Plaintiff-in-
Counterclaim**

PLAINTIFFS' MOTION SEEKING ORDER OF CONTEMPT

Now come the plaintiffs to the above-captioned matter and hereby move this Honorable Court for an Order of Contempt against the defendant, Arthur Orfanos, relating to his willful, repeated, and continuing violation of the Order and Preliminary Injunction entered by this Court on November 2, 2004. In support of this motion, the plaintiffs state the following:

1. In response to the plaintiffs' motion for preliminary injunction filed in this matter, this Court ordered that the defendant shall be enjoined from, among other things, "using, advertising, or publishing for any purpose, the name 'Pink Voyd,' or any similar combination," and that he also be enjoined from "[r]epresenting himself to anyone as a member of Pink Voyd, or representing to anyone that he is associated with Pink Voyd in any way."

2. Despite this clear and unambiguous order, as of November 10, 2004, Mr. Orfanos was still operating the website www.pinkvoyd.net. The defendant was using the website to market his band The Mood. (Please see Affidavit of Daniel Fisher,

attached hereto as Exhibit A.) The defendant's actions in operating this website were a direct violation of this Court's order.

3. Plaintiffs' counsel sent a letter to Mr. Orfanos's attorney on November 10, 2004 demanding that he cease operating the website www.pinkvoyd.net. (Please see a copy of the correspondence from Attorney Michael B. Newman to Attorney Mark Pelosky dated November 10, 2004, attached hereto as Exhibit B.) Only after this letter was sent did the defendant apparently cease operating the website in question.

4. Despite the foregoing, Mr. Orfanos again violated this Court's order by including numerous references to Pink Voyd in the source codes of his website at www.themood.us. That website, which apparently is used to market the defendant's own band, included in its source code a copy of Mr. Orfanos's letter sent to the plaintiffs accusing them of intellectual property violations regarding the name "Pink Voyd." These source codes were available for all to see, particularly those individuals who know how to look for them. (Fisher Affidavit, ¶ 4.)

5. Plaintiffs' counsel again wrote to Mr. Orfanos's attorney on November 15, 2004 demanding that he cease his continued violation of this Court's order. (Please see correspondence from Attorney Michael B. Newman to Attorney Mark Pelosky dated November 15, 2004, attached hereto as Exhibit C.) Only after this correspondence was sent did the defendant appear to remove all of the references to Pink Voyd from his website source codes.

6. Despite all of the foregoing, as of the date this motion is filed, Mr. Orfanos continues his willful and blatant violations of this Court's direct orders. On Mr. Orfanos's website, www.themood.us, he relates the story of how his band "the Mood became 'another band' (which is still active); my forced departure, other truths and disgusting things that were done against me." The defendant explains in great

detail his relationship with “a drummer (we’ll call him ‘T’)” and how he “explained to ‘T’ the details of (his) **intellectual property**....” (Emphasis in original.) Were these references not obvious enough, the defendant informs all visitors to his website to “feel free to NOSE around.” On that same website page, there is a picture of a clown, and when a visitor clicks on the clown’s nose, the person is automatically transported to the plaintiffs’ website, www.pinkvoyd.com. (Fisher Affidavit, ¶ 5.)

7. In addition, the defendant retains on his website some of the posters that were created by plaintiff, John Pitingolo. If a visitor clicks on these posters, they are directed to what purports to be an email trace page. The source codes for this page again contain a copy of the demand letter that Mr. Orfanos sent to the plaintiffs accusing them of intellectual property violations regarding the name Pink Voyd. (See Fisher Affidavit, ¶ 6.)

8. The above-described actions of the defendant are direct and continuing violations of the clear and unambiguous terms of this Court’s Order. The defendant’s conduct in this regard is obviously an intentional and blatant disregard of this Court’s order. The defendant cannot claim to be unaware of these violations as the plaintiffs twice brought them to his attention before bringing this motion. The plaintiffs, in sending these letters, have made a good faith effort to attempt to resolve these violations without the need for the court’s intervention. It is quite evident that the defendant is playing a type of shell game, making repeated and duplicitous violations of this Court’s Order, changing his tactics when he is forced to stop in a particular area. All the while, Mr. Orfanos intentionally disregards this Court’s Order with his continued campaign to communicate to as many people as he can the misrepresentations about the ownership of the name Pink Voyd. Such conduct must not

be condoned. An Order of Contempt against the defendant is necessary and warranted.

WHEREFORE, the plaintiffs respectfully request that Honorable Court issue an Order finding that the defendant, Arthur Orfanos, is in Contempt of the Order that was entered in this matter on November 2, 2004. The plaintiffs also request the following relief:


A. That the Preliminary Injunction entered in this matter be converted to a permanent injunction;

B. That the plaintiffs be awarded their reasonable attorneys' fees and costs incurred in bringing this action. The amount of the plaintiffs' fees and costs incurred to date is \$29,788.00. (Please see Affidavit of Counsel, Michael B. Newman, attached hereto as Exhibit D.)

C. For any other relief which this Court deems just and proper.

Respectfully submitted,

CLARK, HUNT & EMBRY


Michael B. Newman
55 Cambridge Parkway
Cambridge, MA 02142
B.B.O. No. 6322222
(617) 494-1920

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A TRUE COPY OF THE ABOVE DOCUMENT
WAS SERVED UPON THE ATTORNEY OF RECORD FOR EACH

OTHER PARTY BY MAIL (BY HAND) ON 12/7/04

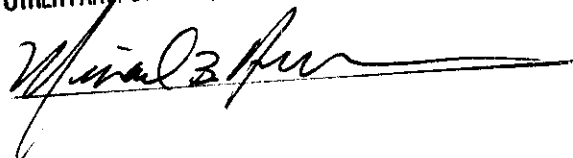


EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CASE NO. 04 11539 JLT

WALTER STICKLE, ANTHONY
CALIENDO, JOHN PITINGOLO, and
DANIEL FISHER,
Plaintiffs

v.

ARTHUR ORFANOS,
Defendant

AFFIDAVIT OF DANIEL FISHER

I, Daniel Fisher, do hereby depose and state under oath:

1. I am one of the plaintiffs in the above-captioned case and have firsthand knowledge of the facts that I am about to relate.

2. On or about November 10, 2004, I visited the defendant's website, www.pinkvoyd.net, to see if he was complying with this Court's order. I found that the defendant's website was still very active. He was using it to market his own band, The Mood, and it contained numerous misrepresentations that he founded the plaintiffs' band, Pink Voyd. The defendant's website also contained photographs of the plaintiffs.

3. Only after our attorney wrote to Mr. Orfanos's attorney demanding that he stop his intentional violation of the court order did Mr. Orfanos appear to take his website down at www.pinkvoyd.net. Right before the website went down it told visitors to go to his new website at www.themood.us. On or about November 15, 2004, I went to the defendant's website at www.themood.us, again to see if he was complying with the court order.

4. On the defendant's website www.themood.us, I found that the source codes contained numerous references to Pink Voyd. It included a copy of a letter that the defendant sent to us earlier this year accusing the plaintiffs of violating his intellectual property rights regarding the name Pink Voyd. This information, although contained in a source code, is available for anyone visiting the website to see, and there are a lot of people who know how to view this information. If one is using Internet Explorer, one simply has to go to the "View" pull-down menu and select "Source" to see this source code information. If one is using Netscape, it is viewable by going to the "View" pull-down menu and selecting "Page Source." Again, only after our attorney demanded that Mr. Orfanos cease this violation of the court order did he remove it from that location.

5. Unfortunately, however, Mr. Orfanos has continued to directly and intentionally violate the court order in other ways, more cunning and deceitful than before. On or about November 27, 2004, I visited the defendant's website at www.themood.us to see if he was complying with the court order. In the website, the defendant informs all visitors of how his band, The Mood, became "another band (which is still active)," that he was forced out of this band and that disgusting things were done to him. The defendant's homepage also has a visible message in the status bar at the bottom of the page that tells people to "feel free to NOSE around." There is a picture of a Bozo the Clown on this page, and when I clicked on the clown's nose, I was directed to the plaintiffs' website at www.pinkvoyd.com. (Attached to this affidavit are true and accurate copies of printouts from the defendant's website.)

6. In addition, Mr. Orfanos has on his website some posters that were created by the plaintiff, John Pitingolo. When I clicked on these posters, I was

brought to what appeared to be a bogus email tracer page.

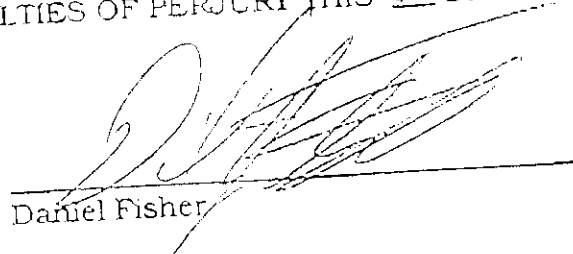
http://themood.us/email_trace.htm

The source codes for these email trace pages, once again, included a copy of the demand letter that the defendant wrote to us in May of 2004 accusing the plaintiffs of violating his intellectual property rights concerning the name Pink Voyd. (True and accurate copies of these web pages and the source code pages are attached to this Affidavit.)

7. Mr. Orfanos also has a page that directly links to our Pink Voyd archives, allowing visitors of his site to browse through older versions of our band's pictures and webpages. <http://themood.us/players.htm>

8. It is clear to us that Mr. Orfanos is doing everything he can to avoid complying with the court's order. He is intent on continuing his campaign to discredit the plaintiffs and to try and make everyone believe that he was the creator of Pink Voyd and that he owns the rights to that name. It is obvious that he will not cease with this wrongful conduct unless he is forced to do so and the consequences are severe.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 6th DAY OF
December 2004.


Daniel Fisher



WELCOME TO...

THE MOOD

www.TheMood.us

ALL NEW

Our Web Address is now:

www.TheMood.us

WELCOME! Please stay tuned, The "make-over" is on the way!
The New Graphics for this site ARE in development.

Of course, we had to take some time to work on the Message Board
Special Thanks to all our privately invited guests for signing up!

More details are posted on the News Page

If you have any questions or would like to contact the webmaster for details
use the links below:

contact webmaster: webmaster@themood.us

-or-

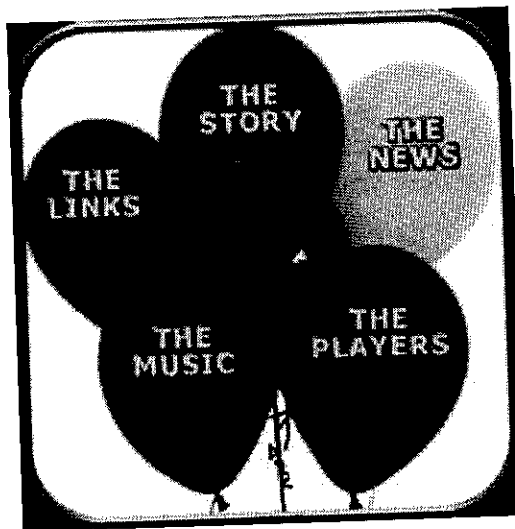
contact THE MOOD: TheMood2@aol.com

Thanks again to all our visitors, and Thank You for your patience,

p.s., **Only** those of you **NOT AFRAID** of
kLOWnZ may download **this file**.

Please, be kind....

kLOWn



Message Board Coming Soon

Contact "The MOOD"





Case 2 Number 02 P**9 JLT
U.S. District Court

This was not the intention when I founded "THE MOOD" back in
badly though, this is what it has become...

I started this project to pay tribute to the GREAT PINK FLOYD
Now I begin to explain to everyone about how the band I created turned into this

I will be adding in part, segments of this story and explanations of what really
how The Mood became "another band" (which is still active); my forced departure
and disgusting things that were done against me.

Many people have asked questions. I will answer them by telling this

The STORY... part1 - part2 - More to come...

The Story...

The STORY... part 1

The Mood™ started out as an original band in 1982. From that time we used to Pink Floyd cover songs to warm up with. It became a fun habit, and over the years we played more and more of them. When I released the first CD "The Mood" Live from the Tea Party in 1995, many people told me that I reminded them of David Gilmour. During the recording of the Tea Party CD, observations were made about the songs I wrote, and they sounded like Pink Floyd.

When we started to perform live again, I thought more about putting together a possible Pink Floyd Tribute band, and introduce some original music with it too. I knew it would be a tremendous undertaking. I knew from the very beginning that I would have to find someone resembling David Gilmour. I didn't think or expect that I would find anyone resembling or Roger Waters but if I had, then we'd be able to turn the whole project into something that possibly become what "Beatlemania" was to the Beatles.

I was told about a drummer, (we'll call him "T"), via a mutual friend. I called "T" a few days later, when he returned my call he was a bit reluctant but eventually agreed to let me use him some materials or music of The Mood™. I sent "T" a package which included a CD, along with a letter regarding my idea and some press clippings that I had. He called me a few days later and I drove up to his office to meet him. One of the reasons that sparked my interest was that "T" was friends during High School with one of Richard Pontes' sisters, and was his best friend, co-founder, original drummer of The Mood™ and wrote many songs with me.

We met on a Saturday afternoon in early 1998 and I explained to "T" the details of the project, my **property**, specific ideas, and certain methods which no one at the time, or even now, had ever thought of.

Thank you for visiting, this site will be updated often.
I will be adding photos and other tidbits of information to better illustrate the project.

Any questions? Please feel welcome to email: **TheMood2@aol.com**

*Dedicated to Richard Pontes (1962-1996)
And Ray Crandall (1962-2003)*

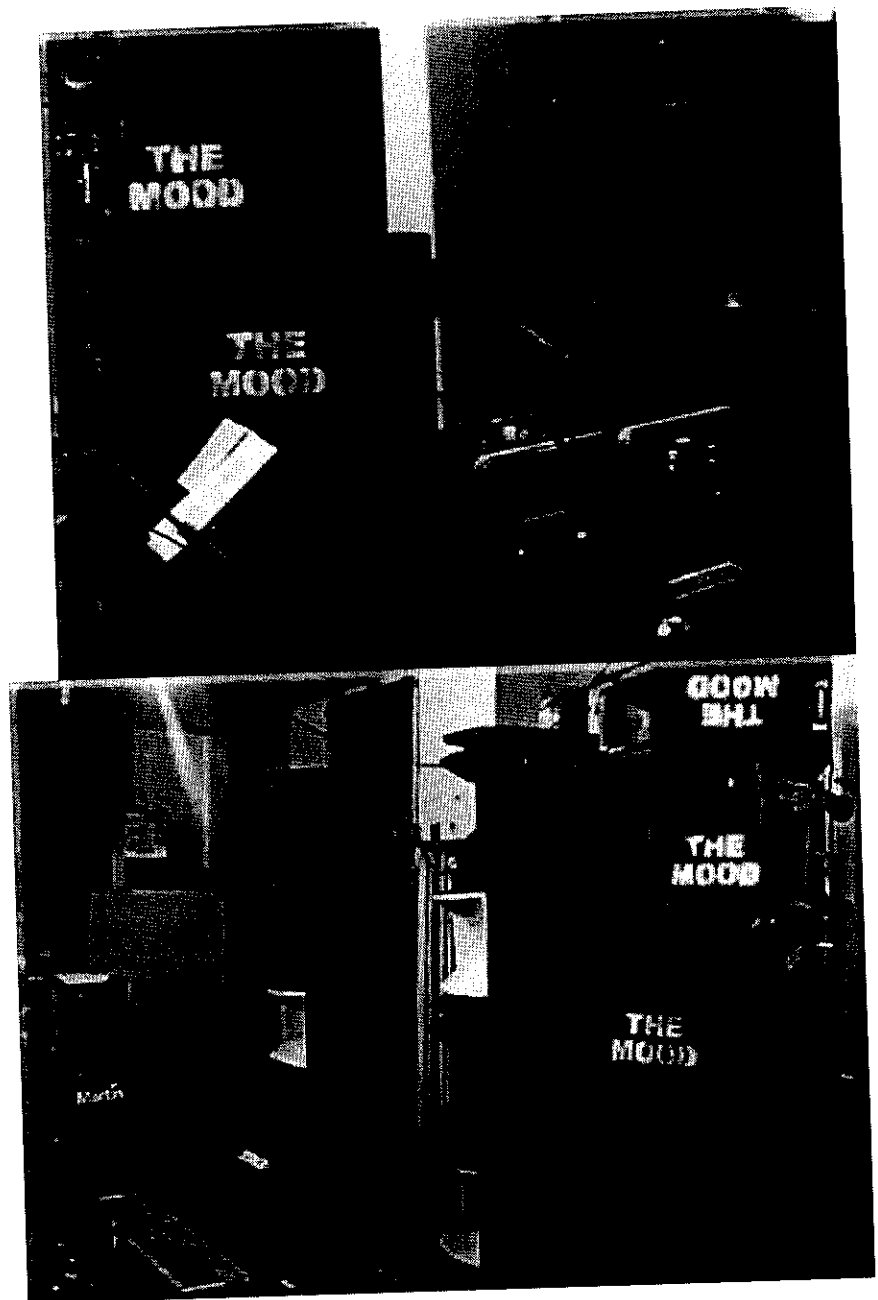
Both of whom I had the pleasure to know and play with in my life.
Both members of THE MOOD™

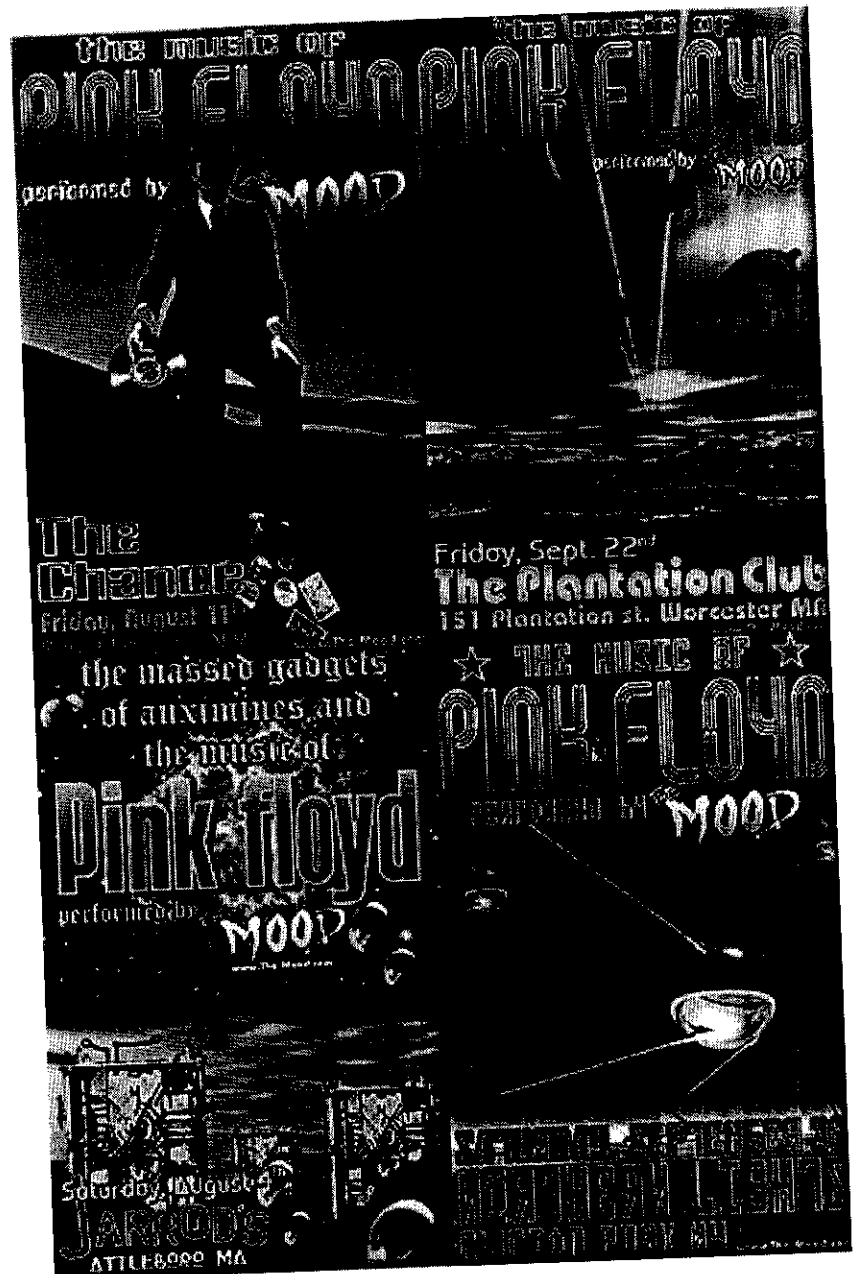
If only.....

Shine on!!

Thank You All for visiting "www.TheMood.us"

The Story...





email_trace[1]

<!-- May 5, 2004

To Daniel F*****, John P*****, Walter S*****, Anthony C*****:

As you are all well aware, it has been some time since we've been in contact. Unfortunately during the last time we were in contact, you conveyed your hatred for me. The vile behavior and actions in which you inflicted upon me caused great sorrow, distress and sadness. To the present time I am in bewilderment for the motives as to why I was victimized by these demeaning judgments in which you so eagerly and determinedly condemned me with. I have no interest as to which one (or more) of you is particularly responsible or to blame for this cruelty, you may determine this amongst yourselves. I may never know if you feel any shame or remorse, however, I have a more important matter at hand with Pink Voyd. I wish to express to you that this is of an extreme nature which requires your utmost and undivided attention.

I am writing to inform you that I am currently preparing to file a law suit against Pink Voyd for the actions that have been committed against me, which include; Intellectual property violation (among other things). Please understand that this matter is in a serious stage of development. I have contacted an attorney, who is awaiting my instruction to continue forth with this lawsuit against Pink Voyd however, without malice, and in a civilized manner, I have written this letter to offer you an opportunity to settle this claim with me and keep this litigation out of the courtroom.

The retribution for damages that I seek are fair and just. It appears to be in your best interest to accept my offer and settle this matter with me in a most diplomatic and professional manner. I wish to offer my good will and good nature to you and extend this opportunity so that you may avoid escalating the legal ramifications.

I am protesting and strongly objecting to the embarrassment, humiliation and insult in which you caused to my wife D*****, who made strong attempts to appeal to your good senses and human nature as to my well being. She explained and voiced her concerns to you, not only regarding my health, but also for the well being and professional aspects of both myself and those of The Mood™/Pink Voyd™ project. Her pleas to you during and after my expulsion from The Mood™/Pink Voyd™ (the project and venture in which I created and established) went unheard and ignored driven by your personal agenda. I believe it would be safe to assume that most any sensible, compassionate individual would agree that your actions against me were immoral, or to say the least, unprofessional. I believe that the judgments that were executed and delivered upon me were incomprehensible.

I would like to bring to your attention that I have also had contact with, and/or preparing to contact, if necessary, the following parties (or their representatives) relative to my claim:

Sony Music, Pink Floyd, Pink Floyd Music Ltd, Roger Waters

These complaints include the uploaded sound effects that D** F***** illegally acquired from Pink Floyd at Foxboro stadium (May 1994) and may still have in his possession, I believe that this could also possibly affect his personal livelihood which is not something I wish to see happen. They show concern and an interest in pursuing actions against Pink Voyd and Mr. F***** as well. I am willing to assist the aforementioned parties if necessary. It's likely there are others that may express similar interest as well, as to the past and present activities of Pink Voyd;

email_trace[1]
 Kurzweil, your insurance company(s), workman's compensation insurance, The Town of
 Billerica, The Commonwealth of Massachusetts, The Internal Revenue Service.

Being prepared to proceed forth with claims and duties to these parties and/or
 agencies it is also something that I'd prefer to avoid. This was not my intention
 when I founded The Mood™/Pink Voyd™ project. Though you continue my project
 unauthorized and in a manner in which I strongly disapprove (including operation of
 business/commerce under a trademark name in which you are not the legal proprietors)
 please note that I will not hesitate to execute such actions in the name of justice.

I believe that by offering the convenience of this option to you, it may also be
 easier not only for Pink Voyd but any other persons and/or agencies, that are (or
 may be) affiliated with Pink Voyd both personally and professionally, that they too
 not be affected in any way by any legal action and that they too would benefit from
 not being affected by serious legal action and not be subjected to any embarrassment
 and participation in such litigation in a court of law, or have any future
 involvement or association with such litigation.

Please understand that I welcome communication with you and that I expect and await
 your reply that you wish to discuss and opt for a settlement with me outside of the
 court system and in a civil, professional manner and environment. I respectfully
 ask that you reply, no later than thirty days from the postmark date of this letter.
 You may reach me, correspondence only, to my mailing address, voice mail may be
 left. I am willing and available to communicate and also arrange a personal meeting
 regarding a settlement only.

Contact information:
 Arthur Orfanos
 Email : Themood2@aol.com

I also strongly recommend and request that you cease and desist operating your
 present entertainment service(s) under the name "Pink Voyd" (artistic, mechanical
 and intellectual) as I, Arthur Orfanos, am the rightful owner.

Once again, I am expressing my desire to resolve this unsettled business with Pink
 Voyd in a timely, friendly, professional and convenient manner not only for
 ourselves, but for the court system of the Commonwealth of Massachusetts as well. I
 am in high hopes that we can settle this amongst ourselves.

Thank you for taking the time to read my letter, I hope to hear from you soon.

Sincerely,

Arthur Orfanos
 Founder The Mood™, Pink Floyd Experience, Pink Voyd™ -->

```
<!DOCTYPE HTML PUBLIC "-//W3C//DTD HTML 4.01 Transitional//EN">
<html>
<head>
<title>The E-MAIL trace...</title>
<meta http-equiv="Content-Type" content="text/html; charset=iso-8859-1">
<script language="JavaScript" type="text/JavaScript">
<!--
function MM_reloadPage(init) { //reloads the window if Nav4 resized
  if (init==true) with (navigator) {if
((appName=="Netscape")&&(parseInt(appVersion)==4)) {
    document.MM_pgW=innerWidth; document.MM_pH=innerHeight; onresize=MM_reloadPage;
  }}
  else if (innerWidth!=document.MM_pgW || innerHeight!=document.MM_pH)
location.reload();
}
```

```

email_trace[1]
MM_reloadPage(true);

function MM_preloadImages() { //v3.0
    var d=document; if(d.images){ if(!d.MM_p) d.MM_p=new Array();
        var i,j=d.MM_p.length,a=MM_preloadImages.arguments; for(i=0; i<a.length; i++)
            if (a[i].indexOf("#")!=0){ d.MM_p[j]=new Image; d.MM_p[j++].src=a[i];}}
    }

function MM_swapImgRestore() { //v3.0
    var i,x,a=document.MM_sr; for(i=0;a&&i<a.length&&(x=a[i])&&x.oSrc;i++)
        x.src=x.oSrc;
    }

function MM_findObj(n, d) { //v4.01
    var p,i,x; if(!d) d=document; if((p=n.indexOf("?"))>0&&parent.frames.length) {
        d=parent.frames[n.substring(p+1)].document; n=n.substring(0,p);}
    if(!(x=d[n])&&d.all) x=d.all[n]; for (i=0;!x&&i<d.forms.length;i++)
        x=d.forms[i][n];
    for(i=0;!x&&d.layers&&i<d.layers.length;i++) x=MM_findObj(n,d.layers[i].document);
    if(!x && d.getElementById) x=d.getElementById(n); return x;
    }

function MM_swapImage() { //v3.0
    var i,j=0,x,a=MM_swapImage.arguments; document.MM_sr=new Array;
    for(i=0;i<(a.length-2);i+=3)
        if ((x=MM_findObj(a[i]))!=null){document.MM_sr[j++]=x; if(!x.oSrc) x.oSrc=x.src;
            x.src=a[i+2];}
    }
    //-->
</script>
</head>

<body bgcolor="#000000" text="#CCCCC" link="#FF66FF" vlink="#FF6666"
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    onLoad="MM_preloadImages('moodballoons_menu2/moodballoons_menu1_r2_c5_f2.jpg','moodb
    alloons_menu2/moodballoons_menu1_r3_c9_f2.jpg','moodballoons_menu2/moodballoons_menu
    1_r4_c2_f2.jpg','moodballoons_menu2/moodballoons_menu1_r7_c7_f2.jpg','moodballoons_m
    enu2/moodballoons_menu1_r8_c3_f2.jpg')">
    <div align="center">
        <table width="56%">
            <tr>
                <td>&nbsp;</td>
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                    <div align="center">
                        <table border="0" cellpadding="0" cellspacing="0" width="250">
                            <!-- fwtable fwsrc="moodballoons_menu1.png"
                                fwbase="moodballoons_menu1.jpg" fwstyle="Dreamweaver" fwdocid = "742308039"
                                fwnested="0" -->
                            <tr>
                                <td></td>
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                            </tr>
                        </table>
                    </div>
                </td>
            </tr>
        </table>
    </div>

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                                </tr>
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onMouseOut="MM_swapImgRestore()"
onMouseOver="MM_swapImage('moodballoons_menu1_r2_c5','', 'moodballoons_menu2/moodball
oons_menu1_r2_c5_f2.jpg',1);"></a></td>
                                <td colspan="4"></td>
                                <td></td>
                                </tr>
                                <tr>
                                <td rowspan="4"></td>
                                <td rowspan="2" colspan="2"><a href="news.htm"
onMouseOut="MM_swapImgRestore()"
onMouseOver="MM_swapImage('moodballoons_menu1_r3_c9','', 'moodballoons_menu2/moodball
oons_menu1_r3_c9_f2.jpg',1);"></a></td>
                                <td rowspan="2" colspan="7"></td>
                                <td></td>
                                </tr>
                                <tr>
                                <td colspan="6"></td>
                                <td rowspan="2" colspan="2"><a href="links.htm"
onMouseOut="MM_swapImgRestore()"
onMouseOver="MM_swapImage('moodballoons_menu1_r4_c2','', 'moodballoons_menu2/moodball
oons_menu1_r4_c2_f2.jpg',1);"></a></td>
                                <td rowspan="3" colspan="4"><img name="moodballoons_menu1_r4_c4"

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